



DECLARATION OF CIRCUMSTANCES THAT COULD CAUSE AN AGRICULTURAL EMERGENCY

The Director of the Department of Pesticide Regulation declares the existence of circumstances that could cause an agricultural emergency on agricultural establishments applying sulfur for the production of table grapes in the counties of Fresno, Kern, Kings, Madera, and Tulare.

This declaration is made pursuant to Title 3, California Code of Regulations (3 CCR) section 6770, and Title 40, Code of Federal Regulations, Part 170.112(d).

Under Part 170.112(d)(1):

An “agricultural emergency” means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

The existence of circumstances declared under Part 170.112(d)(2) that could cause an agricultural emergency on the establishments specified above are:

- An increased heat wave at the beginning of the month increased the growth of table grapes and then that growth slowed during the recent cooling.
- This recent cooling has hindered several cultural practices and allowed for optimal conditions for mildew to grow.
- The agricultural employer could not have anticipated, and has no control over, these circumstances.

Some agricultural establishments apply sulfur to control fungal disease in table grapes. Critical cultural practices requiring hand labor for the production of table grapes may require worker entry into sulfur-treated vineyards during a restricted-entry interval listed in 3 CCR section 6772 when no alternative practices would prevent or mitigate a substantial economic loss this year to an agricultural establishment in the counties specified above.

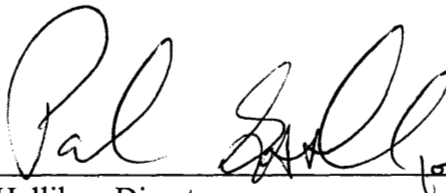


Until May 31, 2004, a worker may enter a sulfur-treated table grape vineyard in the counties specified above during a restricted-entry interval listed in 3 CCR section 6772 to perform tasks, including hand labor tasks, necessary to mitigate the effects of an agricultural emergency, **provided the agricultural employer assures that the following criteria are met:**

1. The agricultural employer determines the agricultural establishment is subject to the circumstances declared above which result in an agricultural emergency on that establishment and notifies the county agricultural commissioner of the following:
 - a. the caller's name.
 - b. the ranch name.
 - c. a statement of the intent to use the exemption.
 - d. an estimation of the acres of table grapes intended for the exemption.
2. Hand labor tasks are not conducted when the temperature exceeds 90 degrees Fahrenheit.
3. At least 24 hours have elapsed since the sulfur treatment.
4. The requirements of 3 CCR sections 6768 and 6771 and applicable provisions of section 6770 have been met.

Use of this exemption is subject to review and denial by the county agricultural commissioner on a site-specific basis.

This declaration shall remain in effect until May 31, 2004.



Paul Helliker, Director

5/25/04

Date